

25
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

(5)

UNITED STATES OF AMERICA :

v.

FILED

CIVIL ACTION NO. 06-5585

WOMEN'S MEDICAL GROUP, MAR 12 2007

DAVID MAZER and JANE

STEINMAN MAZER

MICHAEL E. KUNZ, Clerk
By JP Dep. Clerk

MOTION FOR ENTRY OF DEFAULT JUDGMENT

On February 2, 2007 default was entered against all of the defendants in this matter, Women's Medical Group, David Mazer and Jane Steinman Mazer for failure to appear, plead or otherwise defend this matter. The United States is now requesting that default judgment, in the amount of \$14,124,000.00 be entered by the clerk in this matter, pursuant to Rule 55(b)(1) of the Federal Rules of Civil Procedure. Plaintiff's claim, under the False Claims Act is for a sum, which by computation, can be made certain. In addition, none of the defendants in this matter are an infant or incompetent.

The complaint in this matter, which alleges inter alia claims under the False Claims Act alleges as follows:

The defendants knowingly provided electric scooters to Medicare beneficiaries and billed Medicare for new electric powered wheelchairs (K0011NU) eight (8) times from January 1999 to December 2003. Medicare paid in excess of \$34,000

for these improperly billed scooters (§ 28 of the complaint), and the loss to the government was in excess of \$21,200.00 (See affidavit of Ronald Kerr attached hereto).

The defendants provided used electric wheelchairs (K0011UE) to Medicare beneficiaries and billed Medicare for new wheelchairs (K0011NU) five(5) times during the relevant time period. Medicare paid in excess of \$24,000 for the improperly billed used electric wheelchairs (§ 30 of the complaint) and the loss to the government was in excess of \$8,700.00 (See affidavit of Ronald Kerr attached hereto).

The defendants knowingly provided prefabricated back braces to Medicare beneficiaries and billed Medicare for custom fabricated back braces in excess of eight hundred (800) times from January 1999 to December 2003. Medicare paid in excess of \$151,000 for improperly billed custom fabricated back braces (§ 32 of the complaint) and the loss to the government was in excess of \$87,900.00 (See affidavit of Ronald Kerr attached hereto).

The defendants knowingly provided elastic knee orthosis with stays to Medicare beneficiaries and billed Medicare for knee orthosis with condylar pads and joints in excess of nineteen hundred (1,900) times from January 1999 to December

2003. Medicare paid in excess of \$168,000 for the improperly billed elastic knee orthoses with stays (§ 34 of the complaint) and the loss to the government was in excess of \$90,700.00 (See affidavit of Ronald Kerr attached hereto).

From no later than January 1999 through December 2003, defendants Women's Medical, David Mazer and Jane Steinman Mazer presented or caused to be presented in excess of two thousand seven hundred (2,700) false or fraudulent claims for payment to the United States, through the DMERC for Region A by submitting claims on HCFA 1500 forms for reimbursement to the Medicare program (§ 39 of the complaint).

The claims presented were false or fraudulent because they were submitted under the wrong HCPCS code; claims were submitted for new electronic powered wheelchairs under HCPCS code K0011NU when device being supplied was either an electric powered scooter (E 1230) or a used electronic powered wheelchair (K0011UE); claims were submitted for a custom fabricated back brace under HCPCS codes LO-610 or LO-510 when a prefabricated back brace (HCPCS code LO-500) was supplied; and claims were submitted for knee braces with

condylar pads and joints under HCPCS code L01820 when ordinary knee braces, HCPCS code L01800 was supplied. (§ 40 of the complaint).

Defendants Women's Medical, David Mazer and Jane Steinman Mazer presented or caused to be presented these claims with actual knowledge of their falsity, or in deliberate ignorance or reckless disregard of their falsity in that such claims were submitted under the wrong, upcoded HCPCS code. (§41 of the complaint).

As a result of these false or fraudulent claims submitted or caused to be submitted by defendants Women's Medical, David Mazer and Jane Steinman, the United States paid the claims resulting in damage to the United States in an amount which exceeds \$208,000 in single damages (§ 42 of the complaint).

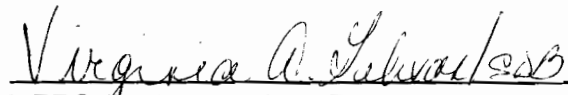
For the False Claims Act claims against the defendants Women's Medical Group, David Mazer and Jane Steinman Mazer the United States requested, and the False Claims Act 31 U.S.C. § 3729 provides for treble the amount of damages plus a penalty as provided by law for each false claim. The penalty established by the False Claims Act prior to September 29, 1999 was at a minimum \$5,000 per false claim,


after September 29, 1999 it was at a minimum \$5,500 per false claim.

The claim of the United States can be calculated by tripling the single damages of \$208,000.00 and adding \$5,000¹ for each of the 2700 false claims. The total amount of the United States' claim is \$14,124,000.00. Wherefore, the United States requests that judgment be entered against Women's Medical Group, David Mazer and Jane Steinman Mazer, jointly and severally in the amount of \$14,124,000.00.

Respectfully submitted,

PATRICK L. MEEHAN
United States Attorney


VIRGINIA A. GIBSON
Assistant United States Attorney
Chief, Civil Division


SUSAN DEIN BRICKLIN
Assistant United States Attorney
Senior Litigation Counsel

¹Since the specific dates for each claim is not alleged in the complaint, and since some of the claims were submitted when the lower penalty was provided for, the lower penalty is used for all of the claims.

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :

v. : CIVIL ACTION NO. 06-5585

WOMEN'S MEDICAL GROUP, :

DAVID MAZER and JANE :

STEINMAN MAZER :

AFFIDAVIT IN SUPPORT OF
MOTION FOR ENTRY OF DEFAULT JUDGMENT

1. I am Special Agent Ronald A. Kerr, employed by the US Department of Health and Human Services (DHHS), Office of Inspector General since January 1998.
2. My duties are to investigate fraud, waste and abuse in programs within the DHHS, including Medicare and Medicaid.
3. As part of my duties, I was assigned to investigate the alleged fraudulent acts of Womens Medical Group (WMG), David P. Mazer and Jane Steinman-Mazer in connection with their submission of claims for durable medical equipment (DME). This equipment was supplied to Medicare beneficiaries and the claims were submitted to the United States for payment.
4. My investigation revealed in part that these defendants knowingly provided electric scooters to Medicare beneficiaries and billed Medicare for new electric powered wheelchairs (K0011NU) eight (8) times from January 1999 to

December 2003. Medicare paid in excess of \$34,000 for these improperly billed scooters and the loss to the government was in excess of \$21,200.00.

5. My investigation further revealed that the defendants provided used electric wheelchairs (K0011UE) to Medicare beneficiaries and billed Medicare for new wheelchairs (K0011NU) five (5) times during the relevant time period. Medicare paid in excess of \$24,000 for the improperly billed used electric wheelchairs and the loss to the government was in excess of \$8,700.00.

6. My investigation further revealed that the defendants knowingly provided prefabricated back braces to Medicare beneficiaries and billed Medicare for custom fabricated back braces in excess of eight hundred (800) times from January 1999 to December 2003. Medicare paid in excess of \$151,000 for improperly billed custom fabricated back braces, and the loss to the government was in excess of \$87,900.00.

7. My investigation further revealed that the defendants knowingly provided elastic knee orthosis with stays to Medicare beneficiaries and billed Medicare for knee orthosis with condylar pads and joints in excess of nineteen hundred (1,900) times from January 1999 to December 2003. Medicare

paid in excess of \$168,000 for the improperly billed elastic knee orthoses with stays, and the loss to the government was in excess of \$90,700.00.

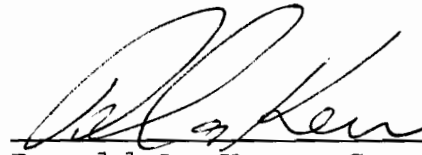
8. In summary, from approximately January 1999 through December 2003, defendants WMG, David Mazer and Jane Steinman Mazer presented or caused to be presented in excess of two thousand six hundred (2,700) false or fraudulent claims for payment to the United States, through the DMERC for Region A by submitting claims on HCFA 1500 forms for reimbursement to the Medicare program.

9. The loss to the United States for the claims described above was in excess of \$208,000.00 (single damages).

10. The False Claims Act 31 USC § 3729 provides for treble the amount of damages plus a penalty as provided by law for each false claim. The penalty established by the False Claims Act prior to September 29, 1999 was at a minimum \$5,000 per false claim, after September 29, 1999 it was at a minimum \$5,500 per false claim.

11. The claim of the United States can be calculated by tripling the single damages of \$208,000.00 and adding \$5,000 for each of the 2700 false claims. The total amount of the United States' claim is \$14,124,000.00.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'R. A. Kerr', is written over a horizontal line.

Ronald A. Kerr, Special Agent
US Dept. of Health and Human Services
Office of Inspector General

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing motion for entry of default judgment, to be served by first-class mail, postage prepaid, upon the following:


David Mazer
Jane Steinman Mazer
Women's Medical Group
745 Wisteria Drive
Warrington, PA 18976

FILED

MAR 12 2007

MICHAEL E. KUNZ, Clerk
JP Dep. Clerk

by


SUSAN DEIN BRICKLIN
Assistant United States Attorney
Senior Litigation Counsel

Dated: 03/09/07